

Notice of Allowability

Application No.

10/065,601

Examiner

Joseph S. Del Sole

Applicant(s)

MCISAAC ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/5/04.
2. ☒ The allowed claim(s) is/are 1-6 and 13.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☒ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

The claims submitted by the Applicant are repeated here in order to present them in the proper format. No changes have been made to the claims as submitted by the Applicant on 8/5/04.

Claim 1 (original): An apparatus for producing nonsymmetrical three dimensional food products comprising:

- an iris diaphragm for shaping and portioning food product fed therethrough;
- a food pump for feeding food product to the iris diaphragm;
- a gearbox having a plurality of gears connected to the iris diaphragm for opening and closing said diaphragm to the feed of food product;
- a motor connected to the gearbox to drive the gears in the gearbox;
- a vector drive controlling the motor; and,
- an encoder providing signals to the vector drive directing the operation of the motor to shape the food product exiting from the iris diaphragm.

Claim 2 (currently amended) An apparatus for producing nonsymmetrical three dimensional food produce in accordance with Claim 1 further including:

a plurality of iris diaphragms coupled to the gearbox to ~~function~~ simultaneously shaping shape and portioning portion food product.

Claim 3 (original) An apparatus for producing nonsymmetrical three dimensional food products in accordance with Claim 1 wherein:

the motor comprises an induction motor, which may be controlled to start, stop, speed up, slow down and reverse during a single pumping operation to provide a predetermined shape from the iris diaphragm.

Claim 4 (original) An apparatus for producing nonsymmetrical three dimensional food products in accordance with Claim 1 wherein:

the iris diaphragm comprises a plurality of moveable blades arranged in a shutter like configuration to provide an opening for food product, a blade drive ring connected to the blades to open and close the blades about said opening in a predetermined sequence related to the product being formed, a drive lever having one end connected to the drive ring and the other end connected to the gear box; and,

a flip cutter mounted adjacent the iris opening to flip off the shaped food product at the end of a portion.

Claim 5 (currently amended) An apparatus for producing nonsymmetrical three dimensional food products comprising:

an iris diaphragm for shaping and portioning food product fed therethrough;

a food pump for feeding food product to the iris diaphragm;

a gearbox having a plurality of gears connected to the iris diaphragm for opening and closing said diaphragm to the feed of food product;

a motor connected to the gearbox to drive the gears in the gearbox;
a servo device controlling the motor; and,
an encoder providing signals to the servo drive device directing the operation of the motor to shape the food product exiting from the iris diaphragm.

Claim 6 (original) An apparatus for producing nonsymmetrical three dimensional food products in accordance with Claim 5 wherein:

the motor comprises a synchronous motor.

Claims 7-12 (cancelled)

Claim 13 (new) An apparatus for producing nonsymmetrical three dimensional food products comprising:

an iris diaphragm for shaping and portioning food product fed therethrough;
a food pump for feeding food product to the iris diaphragm;
a gearbox having a plurality of gears connected to the iris diaphragm for opening and closing said diaphragm to the feed of food product;
a motor connected to the gearbox to drive the gears in the gearbox;
a vector drive controlling the motor; and,
an encoder providing signals to the vector drive directing the operation of the motor to shape the food product exiting from the iris diaphragm into configurations such as chicken drummies, fish and torpedoes.

2. The following is an examiner's statement of reasons for allowance: the prior art of record fails to teach the apparatus as discussed in the Office action of 6/24/04. New claim 13 includes the allowable subject matter of original claim 1, but also includes the

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limitation of previously objected claim 12 in independent form in such a manner that the claim is further limiting, and thus not a duplicate, of claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Correspondence

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joseph S. Del Sole whose telephone number is (571) 272-1130. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wanda Walker, can be reached at (571) 272-1151. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from the either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll-free).

Joseph S. Del Sole

J.S.D.

August 12, 2004